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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,268	11/25/2003	Christiaan Steenberg	DC-05754	6368
33438 7590 12/14/2007 HAMILTON & TERRILE, LLP P.O. BOX 203518 AUSTIN, TX 78720			EXAMINER GIESY, ADAM	
			ART UNIT 2627	PAPER NUMBER
			NOTIFICATION DATE 12/14/2007	DELIVERY MODE ELECTRONIC

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10722268	11/25/03	STEENBERGEN ET AL.	DC-05754

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EXAMINER

Adam R.. Giesy

ART UNIT	PAPER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/722,268
Filing Date: November 25, 2003
Appellant(s): STEENBERGEN ET AL.

Robert W. Holland
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/28/2007 appealing from the Office action mailed 6/12/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 5-12 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Gotoh et al. U.S. Patent No. 6,278,671 as stated in the Office action mailed on January 24, 2007. Claims 3, 4, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gotoh et al. U.S. Patent No. 6,278,671 as stated in the Office action mailed on January 24, 2007.

(10) Response to Argument

Independent claim 1

Appellant argues on page 3 that Gotoh fails to disclose "a second set of embedded information stored at the second layer aligned to substantially overlap the first set of information". Examiner respectfully disagrees. Examiner asserts that Gotoh discloses writing a barcode on top of the recording layers in a dual layer disc (see Figures 2A-2E). Examiner notes that the barcode (read: second set of embedded information) does, in fact, overlap the data recording layers (as can be noted from Figures 2A-2C) which contain the user data in the form of pits (read: first set of information).

Appellant further argues on page 3 that the Gotoh disclosure "eliminates any information stored on the optical medium where the barcode is written". Examiner respectfully disagrees. Although Gotoh does disclose that the writing of the barcode data creates a non-reflective portion in a specific area of the disc (as seen in Figure 2D), Examiner asserts that the reflectivity of the layer is destroyed and not the data on

that layer (see Figure 2C – note that although the reflective properties of the layer are destroyed, pit markings, and therefore data, can still be seen/read). Examiner further notes that Gotoh also discloses reading the pit data from the area allocated for non-reflective markings as well as the reading of the barcode data with the optical pickup (see column 41, lines 9-23 and lines 53-59; especially note lines 56-57).

Independent claim 11

Appellant argues on pages 3 and 4 that Gotoh fails to disclose “initiating the optical drive to use the optical medium by bringing the optical drive read head to the predetermined radius and reading the first and second sets of information”. Examiner respectfully disagrees. Examiner notes that the drive as depicted by Gotoh (see Figure 15) does read both the first and second information sets which are located together at a specific radius on the optical disc (see column 41, lines 9-23 and lines 53-59; especially note lines 56-57).

Appellant further argues on page 4 that in the Gotoh disclosure, “[t]he barcode authorizes playback of information stored on the disc, but does not provide information to initiate the optical drive.” Examiner notes that there is no language in the claim to suggest that the barcode initiates the optical drive, especially since the drive needs to be initialized (read: told to start a reproduction operation) in order for the barcode to be read. The optical drive described by Gotoh (see Figure 15) initializes the drive to read the barcode, then the drive is further initialized to read the rest of the first information set based on the outcome of the barcode reproduction (see column 18, lines 5-26).

Independent claim 17

Appellant argues on page 4 that Gotoh fails to disclose "identification information read from first and second aligned embedded information areas, the first embedded information area in a first layer of the optical medium, the second embedded information area in a second layer of the optical medium." Examiner respectfully disagrees. Examiner notes that Gotoh does disclose a dual layer medium (see Figure 6, elements 802 and 825 – note that element 802 refers to a first reflective layer and element 825 refers to a second reflective layer) wherein pits (read: first embedded information) are recorded in both layers and a barcode (read: second embedded information) is recorded on both layers. Examiner asserts that the claim language provides for a first layer with a first embedded information area (shown in Gotoh, Figure 6, element 802 containing pits as a first information set) and a second layer with a second embedded information layer (shown in Gotoh, Figure 6, element 825 containing a non-reflective barcode area). Examiner notes that the claim language used in claim 17 does not require that the first and second information areas be separate from one another or specify that there be only one type of area per layer.


Appellant further argues on page 4 that in the Gotoh "embeds a barcode in a data layer, not in a separate layer, and therefore cannot anticipate claim 17." Examiner respectfully disagrees. Examiner cannot find any claim language that requires the barcode information (second embedded information) to be separate from the user data or pits (first embedded information). Examiner notes that the claim provides for the first embedded information in one layer and the second embedded information in a second layer, but sees no language stipulating that both sets of embedded information cannot both be on both layers.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Adam R. Giesy
Patent Examiner
Art Unit 2627

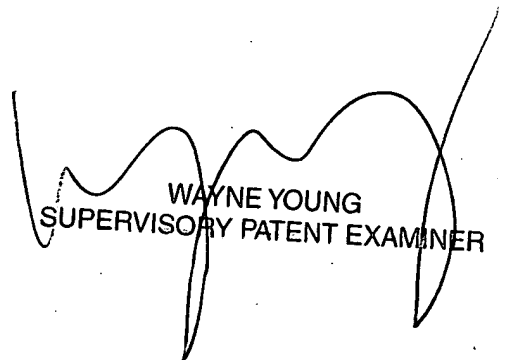
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